

ORIGINAL  
FCC MAIL SECTIONBefore the  
Federal Communications Commission  
Washington, D.C. 20554  
SEP 20 4 22 PM '93

DISPATCHED BY MM Docket No. 93-246

In re Applications of

KB BROADCASTING, INC. File No. BPH-920604MC  
(hereafter "KBB")LYNN KETELSEN File No. BPH-920604MD  
(hereafter "Ketelsen")For Construction Permit  
for a New FM Station on Channel 265A  
in Blooming Prairie, Minnesota

## HEARING DESIGNATION ORDER

Adopted: August 24, 1993; Released: September 20, 1993

By the Chief, Audio Services Division:

1. The Commission has before it the above-captioned mutually exclusive applications for a new FM station.

2. FAA. Attempts to obtain FAA clearance through the Commission's Support Services Branch and KBB have been unsuccessful. Accordingly, since no determination has been received as to whether the antenna proposed by KBB would constitute a hazard to air navigation, an issue with respect thereto will be included and the FAA made a party to the proceeding.

3. *Financial*. In his response to Item 3, Section III, Page 6, FCC Form 301 ("Financial Qualifications"), Ketelsen has omitted the address of the source of his funds. Ketelsen shall submit this information to the presiding Administrative Law Judge.

4. *Late-Filed Amendments*. The applicant below has petitioned for leave to amend his application on the date shown. The accompanying amendment was filed after the last date for filing amendments as of right. Under Section 1.65 of the Commission's Rules, the amendment is accepted for filing. However, an applicant may not improve its comparative position after the time for amendments as of right has passed. Therefore, any comparative advantage resulting from the amendment will be disallowed.

APPLICANT	AMENDMENT FILED
Ketelsen	2/19/93

5. *Comparative Coverage*. Data submitted by the applicants indicate there would be a significant difference in the size of the populations which would receive service from the proposals. Consequently, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the

standard comparative issue for the purpose of determining whether a comparative preference should accrue to any of the applicants.

6. *Conclusion*. Except as may be indicated by any issues specified below, the applicants are qualified to construct and operate as proposed. Since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

7. **ACCORDINGLY, IT IS ORDERED**, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that the tower height and location proposed by KBB would constitute a hazard to air navigation.
2. To determine which of the proposals would, on a comparative basis, better serve the public interest.
3. To determine, in light of the evidence adduced pursuant to the specified issues, which of the applications should be granted, if any.

8. **IT IS FURTHER ORDERED**, That the Federal Aviation Administration IS MADE A PARTY to this proceeding with respect to the air hazard issue only.

9. **IT IS FURTHER ORDERED**, That Ketelsen shall submit the information, specified in Paragraph 3 above, to the presiding Administrative Law Judge within 30 days of the release of this Order.

10. **IT IS FURTHER ORDERED**, That the petition for leave to amend filed by Ketelsen (2/19/93) IS GRANTED, and the corresponding amendment IS ACCEPTED to the extent indicated herein.

11. **IT IS FURTHER ORDERED**, That a copy of each document filed in this proceeding subsequent to the date of adoption of this Order shall be served on the counsel of record in the Hearing Branch appearing on behalf of the Chief, Mass Media Bureau. Parties may inquire as to the identity of the counsel of record by calling the Hearing Branch at (202) 632-6402. Such service shall be addressed to the named counsel of record, Hearing Branch, Enforcement Division, Mass Media Bureau, Federal Communications Commission, 2025 M Street, N.W., Suite 7212, Washington, D.C. 20554. Additionally, a copy of each amendment filed in this proceeding subsequent to the date of adoption of this Order shall also be served on the Chief, Data Management Staff, Audio Services Division, Mass Media Bureau, Federal Communications Commission, Room 350, 1919 M Street, N.W., Washington, D.C. 20554.

12. **IT IS FURTHER ORDERED**, That, to avail themselves of the opportunity to be heard, the applicants and any party respondent herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order. Pursuant to Section 1.325(c) of the Commission's Rules, within five days after the date established for filing notices of appearance, the applicants shall serve upon the other parties that have filed notices of appearance the materials listed in: (a) the Standard Document Production Order

(see Section 1.325(c)(1) of the Rules); and (b) the Standardized Integration Statement (see Section 1.325(c)(2) of the Rules), which must also be filed with the presiding officer. Failure to so serve the required materials may constitute a failure to prosecute, resulting in dismissal of the application. *See generally Proposals to Reform the Commission's Comparative Hearing Process* (Report and Order in Gen. Doc. 90-264), 6 FCC Rcd 157, 160-1, 166, 168 (1990), *Erratum*, 6 FCC Rcd 3472 (1991), *recon. granted in part*, 6 FCC Rcd 3403 (1991).

13. IT IS FURTHER ORDERED, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

FEDERAL COMMUNICATIONS COMMISSION

Larry D. Eads, Chief  
Audio Services Division  
Mass Media Bureau